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Corporate Center Wins Court Round

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A federal judge here yesterday ruled in favor of a nonprofit corporation's claim that the Nixon administration used political pressure to deny the group tax-exempt status.

U.S. District court Judge Charles R. Richey said the failure of the administration to produce evidence needed in the case forced him to accept the complaint of the Center for Corporate Responsibility, which had asked to be exempted from federal income taxes.

He also said the White House failed to comply with several court orders in the case, improperly claimed executive privilege on four documents and a White House tape recording an otherwise delayed and hindered the discovery of information solely in their possession and crucial to a key issue in the case.

Richey said the four documents, submitted to him privately, "demonstrate that the White House staff did in fact consider using the IRS against their 'enemies.' This conduct is at best reprehensible."

Richey said he felt those four documents should be made public, and asked the U.S. Court of Appeals whether he can take that step.

In a memorandum submitted to the higher court, Richey said that the documents "provide evidence of . . . the alleged misconduct or perversion of power by government officials and are therefore relevant to . . . this suit."

"To prevent discovery in such circumstances under the claim of executive privilege would allow the White House to cover up all evidence of its corruption and perversion of power when the court is investigating such abuses," he added.

In his ruling, Richey did not find specific evidence of political pressure being used in the case.

But to punish the White House for its refusal to comply with court orders, he

adopted the following statement made by the center in its suit:

"... (The center) was denied a favorable ruling because it was singled out for selective treatment for political, ideological and other improper reasons which have no basis in the statute and regulations."

The center was founded by an associate of consumer advocate Ralph Nader in 1970 to conduct educational and charitable activities on a nonprofit basis and sought a ruling to be exempt from federal income taxes.

After waiting more than two years for that ruling, the organization filed suit in May of this year.

Two weeks later, the Internal Revenue Service ruled it was not qualified for the exemption.

In open IRS files concerning the center's request for exemption, center attorneys had "discovered seven pages of hand-written notes by Mr. Richard Cox with the notation 'perhaps White House pressure,'" Richey noted in his opinion. Cox is assistant director of the Interpretative Division.

The same files also disclosed "certain unusual procedures in the final processing of the application," Richey said.

"The decision of the usual review panels was to issue a favorable ruling. That was the decision, until the personal intervention of the chief counsel and his deputy, both political appointees," Richey added.

As a result of an earlier order by Judge Richey for the Justice Department to look into the claim of White House interference, two searches were made of White House files—one by White House aide Bruce A. Kehrli and the other by special counsel to the President J. Fred Buzhardt.

Both of those searches were limited and did not meet the scope of the court's order, Judge Richey held yesterday.

He said also that the claim of executive privilege in this case was made only by Buzhardt, although a valid claim of executive privilege can only be made by the head of an agency—or in this case, the President.

"The court is concerned not only with direct political intervention," Richey said, "but also with the creation of a political atmosphere generated by the White House in the Internal Revenue Service which may have affected the objectivity of those participating in the ruling in the plaintiff's case."

Even without the spectre of political pressure, Richey said the corporation should have received tax-exempt status. He said its denial for such status had no legal basis.